

BEFORE THE BOARD OF NURSING HOME ADMINISTRATORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 8.34.415, renewals and)
ARM 8.34.416, continuing education)

TO: All Concerned Persons

1. On September 23, 2004, the Board of Nursing Home Administrators published MAR Notice No. 8-34-35 regarding the public hearing on the proposed amendment of the above-stated rules relating to renewals and continuing education at page 2138 of the 2004 Montana Administrative Register, issue no. 18.

2. A public hearing on the proposed amendment was held on October 18, 2004. Members of the public spoke at the public hearing. In addition, written comments were received prior to the closing of the comment period on October 22, 2004.

3. The Board of Nursing Home Administrators (Board) has thoroughly considered all of the comments made. A summary of the comments received (grouped by rule) and the Board's responses are as follows:

ARM 8.32.415 RENEWALS

Comment 1: One commenter stated that the proposed amendment is confusing and may be misinterpreted. Changing the filing date for renewal applications to "on or before January 1" for the subsequent calendar year, appears to mean that a licensee would be required to renew a full year in advance. The December 31 renewal date conveys the message the next subsequent year begins the next day, January 1, 2005.

Response 1: The Board acknowledges the comment and agrees that the language could be clearer. As per ARM 8.2.208, the renewal date is January 1. The Board has amended the language to more clearly identify a licensee's renewal obligations.

ARM 8.32.416 CONTINUING EDUCATION

Comment 2: Eleven comments were received in opposition to the proposed amendment regarding the removal of carry-over continuing education.

Response 2: The Board acknowledges and concurs with the comments. The carry-over continuing education portion of the rule was inadvertently struck. The Board wishes to retain that portion and they by no means had that intent for the

rule. The Board will keep the carry-over provision, formerly subsection (3)(b), and now renumbered as subsection (4)(a).

Comment 3: Two comments were received in opposition to the proposed amendment stating there was lack of opportunity for interested parties to make comment or have input regarding changes in the criteria for approval of education.

Response 3: The Board acknowledges the comments, but does not agree. The public has many opportunities for input regarding Board issues. The Board meetings are open to the public and posted on the Board's website which is public. In addition, the rule notice was publicly noticed with a public hearing, inviting any member of the public to comment or provide input.

Comment 4: One licensee was in opposition to the proposed amendment regarding the change from 25 to 15 hours of college courses.

Response 4: The Board acknowledges the comment and wishes to clarify the intent of the rule. College courses are not limited to fifteen hours, although any more hours than that need to have prior approval by the Board.

Comment 5: One licensee was in opposition to the proposed amendment regarding courses sponsored by pre-approved providers/sponsors needing to be germane to long term care and course/programs accepted by other state boards/associations.

Response 5: The Board acknowledges the comment and wishes to clarify the intent of the rule. The list of pre-approved providers/sponsors is quite broad. Some pre-approved providers/sponsors target several professions in one conference. Many times not all courses are germane to long term care. However, the Board recognizes special situations, which occur where outwardly the courses may not seem germane, but will review an explanation by a licensee who demonstrates why the course may be germane. This same discretion is used for course/programs accepted by other state boards/associations. The Board recognizes the need for flexibility, but feels general guidelines are necessary.

Comment 6: One licensee supported the proposed amendment as written.

Response 6: The Board acknowledges the comment. The Board will retain the portion of the rule to retain the carry-over of continuing education credits, as noted in Response 2.

4. After consideration of the comments, the Board has amended the rules as proposed, with the following changes, stricken matter interlined, new matter underlined:

8.34.415 RENEWALS (1) An application for renewal of license for ~~the next subsequent calendar~~ any year shall be filed on or before January 1 of ~~each that~~ year and must be accompanied by the required fee, which shall not be refunded.

(2) The renewal fee for ~~the next subsequent calendar~~ any year ~~shall be~~ is due and payable on or before January 1 of ~~each that~~ year. Renewal fees paid by mail shall be considered as paid when due if the envelope bears a postmark of January 1 or earlier.

AUTH: 37-9-201, MCA
IMP: 37-9-304, 37-9-305, MCA

8.34.416 CONTINUING EDUCATION (1) through (4) remain as proposed.

(a) Up to 25 hours earned in excess of 25 hours in a calendar year may be carried over into the succeeding year.

(a) through (c) remain as proposed but are renumbered (b) through (d).

(5) remains as proposed.

AUTH: 37-1-131, 37-1-319, 37-9-201, 37-9-203, MCA
IMP: 37-1-319, 37-9-203, 37-9-305, MCA

BOARD OF NURSING HOME ADMINISTRATORS
DEBORAH WILSON, CHAIRPERSON

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State March 7, 2005